

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

|  |                          |                          |                                   |
|--|--------------------------|--------------------------|-----------------------------------|
| OAL FILE NUMBERS                                   | NOTICE FILE NUMBER<br>Z- | REGULATORY ACTION NUMBER | EMERGENCY NUMBER<br>2010-0602-01E |
| For use by Office of Administrative Law (OAL) only |                          |                          |                                   |
| NOTICE   |                          | REGULATIONS              |                                   |

## AGENCY WITH RULEMAKING AUTHORITY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD#0310-04

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|  |  |                          |                        |                               |
|--|--|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE   |  | TITLE(S)                 | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other |  | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER       | FAX NUMBER (Optional)         |
| OAL USE ONLY   | ACTION ON PROPOSED NOTICE<br><input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn |                          | NOTICE REGISTER NUMBER | PUBLICATION DATE              |

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

|  |  |  |   |
|--|--|--|---|
| 1a. SUBJECT OF REGULATION(S)<br>ABX4 4 60-Month Time Clock Exemption   |  | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |   |
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)  |  |  |   |
| SECTION(S) AFFECTED<br>(List all section number(s) individually. Attach additional sheet if needed.)   |  | ADOPT  |   |
| TITLE(S)<br>MPP  |  | AMEND<br>42-712, 42-713                                  |   |
|  |  | REPEAL   |   |
| 3. TYPE OF FILING  |  |  |   |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code § 11346)<br><input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11349.3, 11349.4)<br><input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))<br><input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§ 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.<br><input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)<br><input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h))<br><input type="checkbox"/> File & Print<br><input type="checkbox"/> Other (Specify) _____<br><input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)<br><input type="checkbox"/> Print Only |  |  |   |
| 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, § 44 and Gov. Code § 11347.1)<br>N/A  |  |  |   |
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, § 100)<br><input type="checkbox"/> Effective 30th day after filing with Secretary of State<br><input type="checkbox"/> Effective on filing with Secretary of State<br><input type="checkbox"/> \$100 Changes Without Regulatory Effect<br><input checked="" type="checkbox"/> Effective other (Specify) July 1, 2010  |  |  |   |
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY<br><input type="checkbox"/> Department of Finance (Form STD. 399) (SAM § 6660)<br><input type="checkbox"/> Fair Political Practices Commission<br><input type="checkbox"/> State Fire Marshal<br><input type="checkbox"/> Other (Specify) _____   |  |  |   |
| 7. CONTACT PERSON<br>Sue Tognet, Analyst   |  | TELEPHONE NUMBER<br>(916) 657-2586                       | FAX NUMBER (Optional)<br>(916) 654-3286 |
|  |  | E-MAIL ADDRESS (Optional)<br>stognet@dss.ca.gov          |   |

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

John A. Wagner, Director

5/25/10

Amend Section 42-712 to read:

42-302      60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS      42-302

.2            Counting the 60-Month Limit            (Continued)

.21      Exempt Months            Any month in which any of the following conditions exist for any period during the month shall not count toward the 60-month limit as specified:

(a)            (Continued)

(b)      Providing Care            The individual is exempt from welfare-to-work participation requirements due to:

(1)            (Continued)

(2)            Continued)

(3)            Being the parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age. This paragraph shall become inoperative on July 1, 2011.  
(Continued)

(k)      Lack of Necessary Supportive Services      The individual is excused from participation for good cause due to lack of necessary supportive services, as specified in Section 42-713.21. This paragraph shall become inoperative on July 1, 2011.

Authority Cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code.

Reference:      Sections 10553, 10554, 11266.5, 11320, 11320.3, 11454, 11454(e) and (e)(5), 11454.5, 1454.5(b) and (b)(4) and (5), and 11495.1, Welfare and Institutions Code; Section 37 of AB 444 (Chapter 1022, Statutes of 2002); and 42 U.S.C. 608(a)(7)(a), (B) and (D).

.4 (Continued)

.47 (Continued)

.474 The parent or other relative who has primary responsibility for personally providing care to one child who is from 12 to 23 months of age, inclusive, or two or more children who are under six years of age is exempt from welfare-to-work participation. This paragraph shall become inoperative on July 1, 2011. (Continued)

.6 Any month in which an individual is exempt from welfare-to-work activities based on the following exemption criteria shall not be taken into consideration as a month of receipt of aid in computing the 60-month time limit described in Section 42-302. Other exemptions from the 60-month time limit are listed in Section 42-302. (Continued)

.64 Being responsible for personally providing care to a child or children of a specific age, as described in Section 42.712.474. This paragraph shall become inoperative on July 1, 2011. (Continued)

Authority Cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10063(b), 11253.5, 11320, 11320.3, 11331.5(a), (b), (c), and (d), 11454, and 11454.5, Welfare and Institutions Code; and 42 U.S.C. 5044(f)(2).

Amend Section 42-713 to read:

42-713 GOOD CAUSE FOR NOT PARTICIPATING

42-713

.4 (Continued)

- .43 Effective August 1, 2009, any month in which an individual is excused from participation for good cause due to lack of supportive services, as specified in Section 42-713.21, shall not be counted toward the 60-month time limit. This paragraph shall become inoperative on July 1, 2011.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11320.3(b) and (f), 11323.2, 11325.23(c), 11454, 11454.5, 11495, and 11495.1, Welfare and Institutions Code; 42 U.S.C. 607(e)(2); and 45 CFR 261.15.

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1. Further, Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. To determine the Office of Administrative Law five day comment period check <http://www.oal.ca.gov/> often.

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The Legislature enacted the provisions of Assembly Bill (AB)X4 4 (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009), on an urgency basis and to take effect immediately. These emergency regulations will add exemptions and change the policies for good cause findings with regards to the California Work Opportunity and Responsibility to Kids (CalWORKs) program. An exemption from Welfare-to-Work (WTW) participation and the CalWORKs 60-month time clock can be granted for a participant who is the parent or caretaker relative who has primary responsibility for personally providing care to one child who is from 12 months to 23 months of age, or two or more children who are under six years of age. An exemption from the 60-month time clock can also be given to a participant who has been granted good cause due to lack of necessary supportive services. As stated in ABX4 4, these exemptions shall become inoperative on July 1, 2011.
2. Section 43 of ABX4 4, allows the California Department of Social Services (CDSS) to implement applicable provisions of the law through All County Letter (ACL) or similar instructions from the department until regulations are adopted.
3. Delay in the implementation of these regulations would conflict with the statutory directive that emergency regulations be adopted for the provisions of ABX4 4. Relevant portions of ABX4 4, Section 43 read as follows:
  - (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the amendments to Sections 11320.3, 11454.5, and 10544 of the Welfare and Institutions Code, and the repeal of Section 10830 of the Welfare and Institutions Code, as contained in this act, through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2010.

- (b) The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law (OAL) for filing with the Secretary of State (SOS) and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

This language directs CDSS to adopt emergency regulations by July 1, 2010, implementing the statutory changes made by ABX4 4.

- 4. Therefore, in order to preserve the public peace, health, safety, and general welfare of the State of California, these regulations are adopted on an emergency basis.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill (AB) X4 4 (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009) amends the California Work Opportunity and Responsibility to Kids (CalWORKs) Welfare-to-Work Program. The CalWORKs Welfare-to-Work Program is the employment and training component of CalWORKs, California's version of the federal Temporary Assistance for Needy Families (TANF) Program.

Federal welfare reform enacted the TANF program through the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, limiting cash aid to a family with an adult to a total of five years. The intent of the Welfare-to-Work program is to provide employment and training services to the maximum possible number of the adult CalWORKs population to aid them in achieving economic self-sufficiency within this time frame.

The passage of the Budget Act of 2009 as well as AB X4 4 impacted the CalWORKs program significantly. The Budget Act included an approximate reduction of \$376 million to the CalWORKs single allocation in the 2009-10 budget year, and AB X4 4 enacted statutory changes which affect funding and exemptions in the CalWORKs program. This reduction, along with the overall increasing caseload for CalWORKs, will likely result in insufficient funding to provide the full range of Welfare-to-Work services to all current and new CalWORKs clients in the 2009-2010 and 2010-2011 fiscal years. In crafting AB X4 4, the intended goals of the Legislature were to allow for more effective utilization of limited resources for CalWORKs services, provide counties additional flexibility to address funding constraints, minimize disruption of Welfare-to-Work services for those clients already participating, and prioritize exemptions and good cause for new applicants.

In order to achieve these goals, the proposed regulations established two new, temporary CalWORKs exemptions and exemption requirements. The new exemptions apply to clients who are caring for young children and to clients who may be granted good cause from Welfare-to-Work participation due to a lack of supportive services. Clients who receive the exemption for young children will not be required to participate in Welfare-to-Work activities and will have

their CalWORKs 60-month time clock stopped until they no longer meet these criteria, or until July 1, 2011, whichever comes first. Clients who receive the exemption because they were granted good cause from Welfare-to-Work participation due to a lack of supportive services will also have their CalWORKs 60-month time clock stopped until they no longer meet these criteria, or until July 1, 2011, whichever comes first.

Additionally, the proposed regulations will make other technical, conforming changes, such as renumbering of sections and amending cross references as necessary.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The State will incur increased costs of approximately \$849,989 in FY 2009-10 associated with these program changes. Funding for these costs were included in the FY 2010-11 Governor's Budget.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: The counties will incur increased costs of approximately \$352,496 in FY 2009-10 associated with these program changes.
4. Federal Funding to State Agencies: The federal funds associated with these program changes are approximately \$13,101,418 in FY 2009-10 and are assumed to be funded within the annual TANF block grant. These additional federal funds were reflected in the FY 2010-11 Governor's Budget.

#### LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554 of the Welfare and Institutions Code. Subject regulations implement and make specific Sections 11320.3 and 11454.5, Welfare and Institutions Code, ABX4 4 (Chapter 4, Statutes of the Fourth Extraordinary Session of 2009).